

source of those funds is reported contemporaneously and prominently. The immense amount of time and effort and money that is being spent on investigating the Democratic National Committee and the Presidential election of 1996 would, I am certain, have been absolutely unnecessary had all of these contributions and all of their sources and all of these activities been public knowledge at the time at which they were given, the time at which those actions were taken. Why? Because it would not have happened that way.

Mr. MCCONNELL. If my friend will yield, in fact the Democratic National Committee had the option to report in October, chose not to, for the very reason we all know now, that it would have been horrible publicity. So the act of rather contemporaneously disclosing, as my friend is pointing out, would have created at least a decision on their part, Are we going to take the money and take the heat or are we going to forgo the money? Disclosure would have been the best disinfectant.

Mr. GORTON. As it was they could take the money and avoid the heat.

I thank the Senator from Kentucky for his courage in this matter and the clarity with which he speaks on it. We simply cannot, consistently with the Constitution of the United States, limit political speech. We can only limit responsible political speech. We can only force money from responsible challenges into less responsible ones. We can only increase the power of the press, the very group that is most anxious to limit speech by others than its own members, and/or do what some proposed to do just a few months ago, say the first amendment doesn't work anymore and we better change it. As I said at the beginning of my remarks, that may have been, as it was, terrible policy, but it was at least intellectually honest. To present us with an unconstitutional bill is neither.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. I thank my good friend from Washington for his really quite straight observations about this debate. They are right on point. He has articulately pointed out that in a country where the Government is \$1.6 trillion a year, it is not unreasonable to assume that people would want to influence in whatever way they could the decisions that are made that affect their lives so greatly. The Court has made it perfectly clear that the ability to speak and to influence the course of events in any way that is constitutionally permissible is going to be protected, and the only really honest debate, as the Senator from Washington pointed out, was from those who stood up and said we ought to amend the first amendment for the first time in 200 years to give the Government the power to control political discourse. The good news is, Mr. President, only 38 Members of the Senate voted to

amend the first amendment for the first time in 200 years. The first amendment is going to be secure today and it is still going to be secure when the debate on McCain-Feingold is over.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Mr. MCCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. 1227 introduced earlier today by Senator JEFFORDS.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 1227) to amend title I of the Employee Retirement Income Security Act of 1974 to clarify treatment of investment managers under such title.

Mr. MCCONNELL. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill appear at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1227) was considered read the third time, and passed as follows:

S. 1227

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INVESTMENT MANAGERS UNDER ERISA TO INCLUDE FIDUCIARIES REGISTERED SOLELY UNDER STATE LAW ONLY IF FEDERAL REGISTRATION PROHIBITED UNDER RECENTLY ENACTED PROVISIONS.

(a) IN GENERAL.—Section 3(38)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(38)(B)) is amended—

(1) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(2) by striking “who is” and all that follows through clause (i) and inserting the following: “who (i) is registered as an investment adviser under the Investment Advisers Act of 1940; (ii) is not registered as an investment adviser under such Act by reason of paragraph (1) of section 203A(a) of such Act, is registered as an investment adviser under the laws of the State (referred to in such paragraph (1)) in which it maintains its principal office and place of business, and, at the time the fiduciary last filed the registration form most recently filed by the fiduciary with such State in order to maintain the fiduciary's registration under the laws of such State, also filed a copy of such form with the Secretary;”.

(b) AVAILABILITY OF DOCUMENTS VIA FILING DEPOSITORY.—A fiduciary shall be treated as meeting the requirements of section 3(38)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) relating to provision to the

Secretary of Labor of a copy of the form referred to therein, if a copy of such form (or substantially similar information) is available to the Secretary of Labor from a centralized electronic or other record-keeping database.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on July 8, 1997, except that the requirement of section 3(38)(B)(ii) of the Employee Retirement Income Security Act of 1974 (as amended by this Act) for filing with the Secretary of Labor of a copy of a registration form which has been filed with a State before the date of the enactment of this Act, or is to be filed with a State during the 1-year period beginning with such date, shall be treated as satisfied upon the filing of such a copy with the Secretary at any time during such 1-year period. This section shall supersede section 308(b) of the National Securities Markets Improvement Act of 1996 (and the amendment made thereby).

VISA WAIVER PILOT PROGRAM REAUTHORIZATION ACT OF 1997

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar No. 164, S. 1178.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 1178) to amend the Immigration and Nationality Act to extent the visa waiver pilot program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

EN BLOC AMENDMENTS NOS. 1254, 1255, 1256

Mr. MCCONNELL. There are three amendments at the desk, a Kyl-Leahy amendment No. 1254, a Hutchison amendment No. 1255, and an Abraham-Kennedy amendment No. 1256. I ask unanimous consent the amendments be considered as read and agreed to en bloc, the bill be considered read a third time and passed as amended, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments considered and agreed to are as follows:

AMENDMENT NO. 1254

At the end of the bill insert the following section:

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) Within six months after the date of enactment of this Act, the Attorney General shall report to the Committees on the Judiciary of the Senate and the House of Representatives on her plans for and the feasibility of developing an automated entry-exit control system that would operate at the land borders of the United States and that would—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) Such report shall assess the costs and feasibility of various means of operating such an automated entry-exit control system; shall evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and shall estimate the length of time that would be required for any such system to be developed and implemented at the land borders.

AMENDMENT NO. 1255

On page 8, after line 6, insert the following:
(C) REPORTING REQUIREMENTS FOR OTHER COUNTRIES. For every country from which nonimmigrants seek entry into the United States, the Attorney General shall make a precise numerical estimate of the figures under clauses (A)(i)(I) and (A)(i)(II) and report those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year.

AMENDMENT NO. 1256

(Purpose: To modify the authorized pilot program period, to revise authority in fiscal year 1998 to cancel the removal of certain aliens, and for other purposes)

On page 8, between lines 6 and 7, insert the following new clause:

“(iii) COMMENCEMENT OF AUTHORIZED PERIOD FOR QUALIFYING COUNTRIES.—No country qualifying under the criteria in clauses (i) and (ii) may be newly designated as a pilot program country prior to October 1, 1998.

On page 8, line 16, strike “2002” and insert “2000”.

The bill (S. 1178), as amended, was considered read the third time and passed.

S. 1178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Visa Waiver Pilot Program Reauthorization Act of 1997”.

SEC. 2. AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.

(a) DESIGNATION OF PILOT PROGRAM COUNTRIES.—Section 217(c) of the Immigration and Nationality Act (8 U.S.C. 1187(c)) is amended to read as follows:

“(c) DESIGNATION OF PILOT PROGRAM COUNTRIES.—

“(1) IN GENERAL.—The Secretary of State, in consultation with the Attorney General, may designate any country as a pilot program country if it meets the requirements of paragraph (2). In order to remain a pilot program country in any subsequent fiscal year, a country shall be redesignated as a pilot program country by the Attorney General in accordance with the requirements of paragraph (3).

“(2) QUALIFICATIONS.—The Secretary of State may not designate a country as a pilot program country unless the following requirements are met:

“(A) LOW NONIMMIGRANT VISA REFUSAL RATE FOR PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

“(B) LOW NONIMMIGRANT VISA REFUSAL RATE FOR EACH OF 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor

visas for nationals of that country during either of such two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

“(C) MACHINE-READABLE PASSPORT PROGRAM.—The government of the country certifies to the Secretary of State and the Attorney General’s satisfaction that it issues machine-readable and highly fraud-resistant passports to its citizens.

“(D) LAW ENFORCEMENT INTERESTS.—The Attorney General determines that the United States’ law enforcement interests would not be compromised by the designation of the country.

“(E) ILLEGAL OVERSTAY AND DISQUALIFICATION.—For any country with an average nonimmigrant visa refusal rate during the previous two fiscal years of greater than 2 and less than 3 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years, and for any country with an average number of refusals during either such year of greater than 2.5 and less than 3.5 percent, the Attorney General shall certify to the Committees on the Judiciary of the Senate and the House of Representatives that the sum of—

“(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission at a port of entry during such previous fiscal year as a nonimmigrant visitor, and

“(II) the total number of nationals for that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

is less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

“(3) CONTINUING AND SUBSEQUENT QUALIFICATIONS.—The Attorney General, in consultation with the Secretary of State, shall assess the continuing and subsequent qualification of countries designated as pilot program countries and shall redesignate countries as pilot program countries only if the requirements specified in this subsection are met. For each fiscal year (within the pilot program period) after the initial period the following requirements shall apply:

“(A) COUNTRIES PREVIOUSLY DESIGNATED.—(i) Except as provided in subsection (g) of this section, in the case of a country which was a pilot program country in the previous fiscal year, the Attorney General may not redesignate such country as a pilot program country unless the sum of—

“(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

“(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2 percent of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year.

“(ii) In the case of a country which was a pilot program country in the previous fiscal year, the Attorney General may not redesignate such country as a pilot program country unless the Attorney General has made a precise numerical estimate of the figures under clauses (i)(I) and (i)(II) and reports those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year. As of September 30, 1999, any such estimates shall be based on data col-

lected from the automated entry-exit control system mandated by section 110 of Public Law 104-708.

“(iii) In the case of a country which was a pilot program country in the previous fiscal year and which was first admitted to the visa waiver pilot program prior to September 30, 1997, the Attorney General may not redesignate such country as a pilot program country unless the country certifies that it has issued or will issue as of a date certain machine-readable and highly fraud-resistant passports and unless the country subsequently complies with any such certification commitments.

“(B) NEW COUNTRIES.—In the case of a country to which the clauses of subparagraph (A) do not apply, such country may not be designated as a pilot program country unless the following requirements are met:

“(i) LOW NONIMMIGRANT VISA REFUSAL RATE IN PREVIOUS 2-YEAR PERIOD.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during the two previous full fiscal years was less than 3.0 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during those years.

“(ii) LOW NONIMMIGRANT VISA REFUSAL RATE IN EACH OF THE 2 PREVIOUS YEARS.—The average number of refusals of nonimmigrant visitor visas for nationals of that country during either of such two previous full fiscal years was less than 3.5 percent of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during that year.

“(iii) COMMENCEMENT OF AUTHORIZED PERIOD FOR QUALIFYING COUNTRIES.—No country qualifying under the criteria in clauses (i) and (ii) may be newly designated as a pilot program country prior to October 1, 1998.

“(C) REPORTING REQUIREMENTS FOR OTHER COUNTRIES.—For every country from which nonimmigrants seek entry into the United States, the Attorney General shall make a precise numerical estimate of the figures under subparagraph (A)(i)(I) and (II) and report those figures to the Committees on the Judiciary of the Senate and the House of Representatives within 30 days after the end of the fiscal year.

“(4) INITIAL PERIOD.—For purposes of paragraph (3), the term ‘initial period’ means the period beginning at the end of the 30-day period described in section 2(c)(1) of the Visa Waiver Pilot Program Reauthorization Act of 1997 and ending on the last day of the first fiscal year which begins after such 30-day period.”

(b) AUTHORIZED PILOT PROGRAM PERIOD.—Section 217(f) of that Act is amended by striking “September 30, 1997” and inserting “September 30, 2000”.

(c) DEVELOPMENT OF AUTOMATED ENTRY CONTROL SYSTEM.—(1) As of the date of enactment of this Act, no country may be newly designated as a pilot program country until the end of the 30-day period beginning on the date that the Attorney General submits to the Committees on the Judiciary of the House of Representatives and the Senate a certification that the automated entry-exit control system described in paragraph (2) is operational.

(2) The automated entry-exit control system is the system mandated by section 110 of Public Law 104-208 as applied at all ports of entry excluding the land borders.

SEC. 3. REPORT ON AUTOMATED ENTRY-EXIT CONTROL SYSTEM.

(a) Within six months after the date of enactment of this Act, the Attorney General shall report to the Committees on the Judiciary of the Senate and the House of Representatives on her plans for and the feasibility of developing an automated entry-exit

control system that would operate at the land borders of the United States and that would—

(1) collect a record of departure for every alien departing the United States and match the records of departure with the record of the alien's arrival in the United States; and

(2) enable the Attorney General to identify, through on-line searching procedures, lawfully admitted nonimmigrants who remain in the United States beyond the period authorized by the Attorney General.

(b) Such report shall assess the costs and feasibility of various means of operating such an automated entry-exit control system; shall evaluate how such a system could be implemented without increasing border traffic congestion and border crossing delays and, if any such system would increase border crossing delays, evaluate to what extent such congestion or delays would increase; and shall estimate the length of time that would be required for any such system to be developed and implemented at the land borders.

PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1977

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 63, S. 462.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A bill (S. 462) to reform and consolidate the public and assisted housing programs of the United States, and to redirect primary responsibility for these programs from the Federal Government to States and localities, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Public Housing Reform and Responsibility Act of 1997".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.
- Sec. 3. Definitions.
- Sec. 4. Effective date.
- Sec. 5. Proposed regulations; technical recommendations.
- Sec. 6. Elimination of obsolete documents.
- Sec. 7. Annual reports.

TITLE I—PUBLIC HOUSING

- Sec. 101. Declaration of policy.
- Sec. 102. Membership on board of directors.
- Sec. 103. Rental payments.
- Sec. 104. Definitions.
- Sec. 105. Contributions for lower income housing projects.
- Sec. 106. Public housing agency plan.
- Sec. 107. Contract provisions and requirements.
- Sec. 108. Expansion of powers for dealing with PHA's in substantial default.
- Sec. 109. Public housing site-based waiting lists.
- Sec. 110. Public housing capital and operating funds.
- Sec. 111. Community service and self-sufficiency.
- Sec. 112. Repeal of energy conservation; consortia and joint ventures.
- Sec. 113. Repeal of modernization fund.
- Sec. 114. Eligibility for public and assisted housing.
- Sec. 115. Demolition and disposition of public housing.

Sec. 116. Repeal of family investment centers; voucher system for public housing.

Sec. 117. Repeal of family self-sufficiency; homeownership opportunities.

Sec. 118. Revitalizing severely distressed public housing.

Sec. 119. Mixed-finance and mixed-ownership projects.

Sec. 120. Conversion of distressed public housing to tenant-based assistance.

Sec. 121. Public housing mortgages and security interests.

Sec. 122. Linking services to public housing residents.

Sec. 123. Prohibition on use of amounts.

Sec. 124. Pet ownership.

TITLE II—SECTION 8 RENTAL ASSISTANCE

Sec. 201. Merger of the certificate and voucher programs.

Sec. 202. Repeal of Federal preferences.

Sec. 203. Portability.

Sec. 204. Leasing to voucher holders.

Sec. 205. Homeownership option.

Sec. 206. Law enforcement and security personnel in public housing.

Sec. 207. Technical and conforming amendments.

Sec. 208. Implementation.

Sec. 209. Definition.

Sec. 210. Effective date.

Sec. 211. Recapture and reuse of annual contribution contract project reserves under the tenant-based assistance program.

TITLE III—SAFETY AND SECURITY IN PUBLIC AND ASSISTED HOUSING

Sec. 301. Screening of applicants.

Sec. 302. Termination of tenancy and assistance.

Sec. 303. Lease requirements.

Sec. 304. Availability of criminal records for public housing resident screening and eviction.

Sec. 305. Definitions.

Sec. 306. Conforming amendments.

TITLE IV—MISCELLANEOUS PROVISIONS

Sec. 401. Public housing flexibility in the CHAS.

Sec. 402. Determination of income limits.

Sec. 403. Demolition of public housing.

Sec. 404. Technical correction of public housing agency opt-out authority.

Sec. 405. Review of drug elimination program contracts.

Sec. 406. Sense of Congress.

Sec. 407. Other repeals.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds that—

(1) there exists throughout the Nation a need for decent, safe, and affordable housing;

(2) the inventory of public housing units owned and operated by public housing agencies, an asset in which the Federal Government has invested approximately \$90,000,000,000, has traditionally provided rental housing that is affordable to low-income persons;

(3) despite serving this critical function, the public housing system is plagued by a series of problems, including the concentration of very poor people in very poor neighborhoods and disincentives for economic self-sufficiency;

(4) the Federal method of overseeing every aspect of public housing by detailed and complex statutes and regulations aggravates the problem and places excessive administrative burdens on public housing agencies;

(5) the interests of low-income persons, and the public interest, will best be served by a reformed public housing program that—

(A) consolidates many public housing programs into programs for the operation and capital needs of public housing;

(B) streamlines program requirements;

(C) vests in public housing agencies that perform well the maximum feasible authority, dis-

cretion, and control with appropriate accountability to both public housing residents and localities; and

(D) rewards employment and economic self-sufficiency of public housing residents; and

(6) voucher and certificate programs under section 8 of the United States Housing Act of 1937 are successful for approximately 80 percent of applicants, and a consolidation of the voucher and certificate programs into a single, market-driven program will assist in making section 8 tenant-based assistance more successful in assisting low-income families in obtaining affordable housing and will increase housing choice for low-income families.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to consolidate the various programs and activities under the public housing programs administered by the Secretary in a manner designed to reduce Federal overregulation;

(2) to redirect the responsibility for a consolidated program to States, localities, public housing agencies, and public housing residents;

(3) to require Federal action to overcome problems of public housing agencies with severe management deficiencies; and

(4) to consolidate and streamline tenant-based assistance programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) **PUBLIC HOUSING AGENCY.**—The term "public housing agency" has the same meaning as in section 3 of the United States Housing Act of 1937.

(2) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specifically provided in this Act or the amendments made by this Act, this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

SEC. 5. PROPOSED REGULATIONS; TECHNICAL RECOMMENDATIONS.

(a) **PROPOSED REGULATIONS.**—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to Congress proposed regulations that the Secretary determines are necessary to carry out the United States Housing Act of 1937, as amended by this Act.

(b) **TECHNICAL RECOMMENDATIONS.**—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives, recommended technical and conforming legislative changes necessary to carry out this Act and the amendments made by this Act.

SEC. 6. ELIMINATION OF OBSOLETE DOCUMENTS.

Effective 1 year after the date of enactment of this Act, no rule, regulation, or order (including all handbooks, notices, and related requirements) pertaining to public housing or section 8 tenant-based programs issued or promulgated under the United States Housing Act of 1937 before the date of enactment of this Act may be enforced by the Secretary.

SEC. 7. ANNUAL REPORTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit a report to Congress on—

(1) the impact of the amendments made by this Act on—

(A) the demographics of public housing residents and families receiving tenant-based assistance under the United States Housing Act of 1937; and

(B) the economic viability of public housing agencies; and

(2) the effectiveness of the rent policies established by this Act and the amendments made by this Act on the employment status and earned income of public housing residents.